

## RID (Rule Interpretation Decision)

(Use additional sheets as necessary)

Type of RID	Requested Response Time	DSD Assigned RID # <b>103</b>
Customer RID <input type="checkbox"/>	24 hours <input type="checkbox"/>	
Internal Staff RID <input type="checkbox"/>	10 working days <input type="checkbox"/>	
	As time available <input type="checkbox"/>	

**1. Project Name:** Animal Care Related Uses

**2. Project Number:** n/a  
(Plat #, Zoning Case #, etc.)

**3. Project Street Address:** Citywide  
(If not available nearest intersection of two public streets)

**4. Applicant Name:** Andrew Spurgin

**5. Applicant Address:** n/a

**6. Applicant Telephone #:** 210-207-8229

**7. Applicant e-mail Address:** Andrew.Spurgin@sanantonio.gov

**8. Rule in Question:**  
(Section and/or policy of UDC, Sign Code, etc)

Animal care uses listed in the Table of Permitted Uses, Table 311-2

**9. Applicant's Position:**  
(Including date position presented and name of city staff point of contact)

**Date:** September 23, 2011      **Contact:** Andrew Spurgin      **Contact Telephone #:** 207-8229

There are multiple and overlapping animal care related uses in the UDC. The listed uses have expanded and contracted since adoption of the 2001 UDC and it appears that the associated definitions in 35-A101 have not synchronized with the use table changes. For example the veterinary hospital definitions specifically allow outside activities while some of the associated entries in the use matrix do not.

In addition the LBSC functions listed in the UDC are erroneous. For example use 2100 listed for "dog training – indoor" is the number assigned to general retail land uses. Number 2136 listed for "pet grooming – small animals only" is an invalid LBSC number.

**10. Staff Finding:**  
(Including date of finding and name of city staff person formulating finding)

**Date:** September 23, 2011      **Contact:** Andrew Spurgin      **Contact Telephone #:** 207-8229

The UDC provides the following separate land use designations:

	PERMITTED USE	O-1 & O- 1.5	O-2	NC	C-1	C-2	C-3	D	L	I-1	I-2	ERZD	LBCS Function
Animal	Animal - Pound Or Shelter								P	P		S	2418
Animal	Breeder - Small Animal Only								S	P		NA	2140
Animal	Dog Training - Indoor						P		P	P		P	2100
Animal	Dog Training - Outdoor Permitted						S		P	P		S	
Animal	Kennel - Boarding And Breeding								S	P		S	2418
Animal	Pet Grooming - Small Animals Only			P	P	P	P	P	P			P	2136
Animal	Veterinary Hospital - Large And Small Animal (Outside Runs, Pens And Paddocks Permitted)									P		S	2418
Animal	Veterinary Hospital - Large And Small Animal (No Outside Runs, Pens And Paddocks Permitted)						S		P	P		S	
Animal	Veterinary Hospital - Small Animal (Outside Runs, Pens And Paddocks Permitted)								P	P		S	
Animal	Veterinary Hospital - Small Animals (No Outside Runs, Pens And Paddocks Permitted)						S	S	P	P		S	

Retail	Pet Shop – Retail			P	P	P	P	P	P			P	2136
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Prior to January 1, 2007, the UDC also provided the following entries:

	PERMITTED USE	O-1 & O-1.5	O-2	NC	C-1	C-2	C-3	D	L	I-1	I-2	ERZD	LBCS Function
Animal	Small Animal Clinic – No Outside Runs			P	P	P	P	P	P			S	2418
Animal	Small Animal Clinic –Outside Runs Are Permitted					S	P		P	P		S	2418

The UDC also provides the following definitions:

**Animal clinic.** A facility for the prevention, treatment, minor surgery, cure, or alleviation of disease and/or injury in small domestic animals, with all care conducted within a completely enclosed building, provided that noise or odors created by activities within the building are not perceptible beyond the property line, and that no animals are kept outside the building at any time. Overnight boarding of animals is permitted unless expressly prohibited by the zoning district regulations.

**Kennel.** Any lot or premises on which domestic or wild animals are kept, boarded or raised for sale.

**Veterinary hospital (small animal).** A facility for the prevention, treatment, surgery, cure, or alleviation of disease and/or injury in small animals. Overnight and outside boarding of animals are permitted.

**Veterinary hospital (large and/or small animal).** A facility for the prevention, treatment, surgery, cure, or alleviation of disease and/or injury of large animals, such as livestock, and may include outside runs, paddocks and pens.

**Small animal breeder.** Any person or establishment that breeds and/or engages in the feeding or care of more than ten (10) adult animals other than fish that do not normally exceed five (5) pounds at maturity, including but not limited to, white rats, gerbils, guinea pigs, prairie dogs, gophers, chipmunks, frogs, lizards, the smaller non-poisonous varieties of snakes, and non-poultry fowl such as parakeets, parrots, doves, pigeons, cockatiels, and canaries.

The applicability of the outdoor storage standards of the UDC, Section 35-526, is determined by the use matrix as well as the definition of the use as provided below:

(a) **Applicability.** The provisions of this section apply to the keeping, in an unroofed area, any goods, junk, material, or merchandise in the same place for more than twenty-

*four (24) hours, where outside storage is permitted as a use in Table 311-2, Non-residential Use Matrix or in the definition of the use in Appendix A.*

By virtue of this statement, it is critical that the definition of the land use is clear about whether or not it permits outdoor activity.

Staff recognizes “Own Up SA” and other community initiatives underway to address the critical problem of stray animals in San Antonio and promote responsible pet ownership. Other current initiatives include streamlined licensing and adoption procedures and increasing the availability of spay and neuter services and pet vaccination services throughout the community. In addition it has recently become “trendy” for pet owners to seek out improved care services such as “doggie day spas,” “pet resorts” and other business models not contemplated in the UDC. Finally, the large numbers of veterans residing in San Antonio rely on service dogs to maintain independent living and therefore the community needs appropriate locations for animal training.

To respond to these well publicized recent events and trends - and to promote avenues to improve pet adoption, animal care and training services - changes are needed to the disparate uses currently listed in the UDC Table 311-1 and the associated definitions in 35-A101. The Director is authorized to interpret the UDC permitted use matrix in accordance with Section 35-311 (b):

***(b) Uses Not Mentioned.***

***(1) Uses Not Permitted Unless Specifically Enumerated.*** *No building permit shall be issued for a use not specifically mentioned or described by category in the Use Matrix. Evaluation of these uses shall be as set forth in subsection (3), below.*

\* \* \* \* \*

***(3) Interpretation - Materially Similar Uses.*** *The director of development services shall make a determination if a use not mentioned can reasonably be interpreted to fit into a use category where similar uses are described. Interpretations may be ratified by the city council upon recommendation by the zoning commission at a regularly scheduled meeting. It is the intent of this article to group similar or compatible land uses into specific zoning districts, either as permitted uses or as uses authorized by a specific use permit. Uses not listed as a permitted or specific use permit shall be presumed to be prohibited from the applicable zoning district. In the event that a particular use is not listed in the Use Matrix, and such use is not listed as a prohibited use and is not otherwise prohibited by law, the director of development services shall determine whether a materially similar use exists in this section. Should the director of development services determine that a materially similar use does exist, the regulations governing that use shall apply to the particular use not listed and the director's decision shall be recorded in writing. Should the director of planning and development services determine that a materially similar use does not exist, the matter*

may be referred to the zoning commission for consideration for amendment to this chapter to establish a specific listing for the use in question. Unless an appeal is timely filed pursuant to section 35-481 of this chapter, a decision of the director of development services pursuant to this section is deemed to be valid. If, when seeking periodic ratification of interpretations, the director's interpretation is reversed, then decisions made in reliance on the director's interpretation shall be deemed to be nonconforming uses.

**(4) Rules of Construction.** The director may determine that a use is materially similar if:

**A.** The use is listed as within the same structure or function classification as the use specifically enumerated in the Use Matrix, as determined by the Land- Based Classification Standards ("LBCS") of the American Planning Association. The director shall refer to the following documents in making this determination, which documents are hereby incorporated by this reference and which shall be maintained on file in the office of the department of planning and development services: American Planning Association, Land-Based Classification Standards, LBCS Structure Dimension with Detail Descriptions (September 13, 1999); American Planning Association, Land-Based Classification Standards, LBCS Function Dimension with Detail Descriptions (September 13, 1999); American Planning Association, Land-Based Classification Standards, LBCS Tables (September 13, 1999); and American Planning Association, Land-Based Classification Standards (April 18, 1999). The use shall be considered materially similar if it falls within the same LBCS classification (subject to subsection (5), below), and meets the requirements of subsection C., below.

**B.** If the use cannot be located within one of the LBCS classifications pursuant to subsection A., above, the director shall refer to the North American Industry Classification Manual (Executive Office of the President, Office of Management and Budget, 1997)("NAICS"). The use shall be considered materially similar if it falls within the same industry classification of the NAICS (subject to subsection (5), below), and meets the requirements of subsection C., below.

**C.** The proposed use shall not generate trips exceeding other uses proposed in the zoning district by more than ten (10) percent, as determined by the Institute of Transportation Engineers, Trip Generation (5th ed., 1991)(the "ITE Manual"), which document is hereby incorporated by this reference. If the trip generation is not listed in the ITE Manual, the use shall be considered materially similar.

**(5) Construction of LBCS and NAICS.** In order to assist in interpretation of the Use Matrix, the LBCS and NAICS numbers precede each use in the Use Matrix.

Based on the clear direction of the UDC to consult the LBCS function codes, the following entries were found:

**2418 Veterinary services.** *Veterinary services include establishments with licensed practitioners of veterinary medicine, dentistry, or surgery for animals; also included are establishments that provide testing services for licensed veterinary practitioners.*

**2710 Pet or pet supply store.** *Establishments in this category retail pets, pet foods, and other pet supplies.*

**2720 Animal and pet services.** *These establishments provide animal and pet care services (except veterinary), such as boarding, grooming, sitting, and training.*

LBCS provides no other small animal/pet related entries other than the three listed above.

### 11. Staff Position:

(Including date position presented internally and name of city staff person formulating position)

**Date:** September 23, 2011      **Contact:** Andrew Spurgin      **Contact Telephone #:** 207-8229

Based on the LBCS function codes, existing definitions adopted by the City of San Antonio in 35-A101 and based on past precedents on determining the appropriate locations of such land uses, the following uses shall be the basis for future permitted use determinations:

	PERMITTED USE	O-1 & O- 1.5	O-2	NC	C-1	C-2	C-3	D	L	I-1	I-2	ERZD	LBCS Function
<u>Animal</u>	<u>Animal Clinic</u>			<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>			<u>S</u>	2418
<u>Animal</u>	<u>Animal and pet services (no outdoor runs, pens or paddocks)</u>			<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>			<u>P</u>	2720
<u>Animal</u>	<u>Animal and pet services (outdoor runs, pens or paddocks permitted)</u>						<u>S</u>		<u>P</u>	<u>P</u>		<u>S</u>	2720
Animal	Animal - Pound Or Shelter								P	P		S	2418
Animal	Breeder - Small Animal Only								S	P		NA	2140
Animal	Veterinary Hospital (small animal)								P	P		S	2418
Animal	Veterinary Hospital (large									P		S	2418

	and/or small animal)												
Retail	Pet Shop – Retail			P	P	P	P	P	P			P	2136 2710

The following definitions shall be used to support the uses in the matrix above:

**Animal clinic.** A facility for the prevention, treatment, minor surgery, cure, or alleviation of disease and/or injury in small domestic animals, with all care conducted within a completely enclosed building, provided that noise or odors created by activities within the building are not perceptible beyond the property line, and that no animals are kept outside the building at any time. Overnight boarding of animals is permitted ~~unless expressly prohibited by the zoning district regulations.~~ *(modification to existing definition)*

**Animal and pet services.** These establishments provide animal and pet care services (except veterinary), such as boarding, grooming, sitting, and training. *(new definition)*

**Animal pound or shelter.** A facility used to house or contain stray, homeless, abandoned or unwanted animals. This use may include animal adoption, euthanization services, and veterinary services as defined. Outdoor runs, paddocks and pens are permitted. *(new definition)*

**Pet or pet supply store.** Establishments in this category include retail pets, pet foods, and other pet supplies. *(new definition)*

**Small animal breeder.** Any person or establishment that breeds and/or engages in the feeding or care of more than ten (10) adult animals other than fish that do not normally exceed five (5) pounds at maturity, including but not limited to, white rats, gerbils, guinea pigs, prairie dogs, gophers, chipmunks, frogs, lizards, the smaller non-poisonous varieties of snakes, and non-poultry fowl such as parakeets, parrots, doves, pigeons, cockatiels, and canaries. *(existing definition)*

**Veterinary hospital (small animal).** A facility for the prevention, treatment, surgery, cure, or alleviation of disease and/or injury in small animals. Overnight and outside boarding of animals are permitted. *(existing definition)*

**Veterinary hospital (large and/or small animal).** A facility for the prevention, treatment, surgery, cure, or alleviation of disease and/or injury of large animals, such as livestock, and may include outside runs, paddocks and pens. *(existing definition)*

The following uses should be eliminated from the use matrix through a future update program:

	PERMITTED USE	O-1 & O-1.5	O-2	NC	C-1	C-2	C-3	D	L	I-1	I-2	ERZD	LBFS Function
Animal	Dog Training–						P		P	P		P	2100



	Indoor												
Animal	Dog Training- Outdoor Permitted						S		P	P		S	
Animal	Kennel- Boarding And Breeding								S	P		S	2418
Animal	Pet Grooming- Small Animals Only			P	P	P	P	P	P			P	2136
Animal	Veterinary Hospital- Large And Small Animal (No Outside Runs, Pens And Paddocks Permitted)						S		P	P		S	
Animal	Veterinary Hospital- Small Animals (No Outside Runs, Pens And Paddocks Permitted)						S	S	P	P		S	

The following definition should be eliminated from 35-A101 through a future update program:

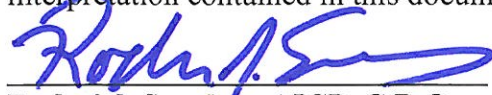
~~*Kennel.* Any lot or premises on which domestic or wild animals are kept, boarded or raised for sale.~~

## 12. Departmental Policy or Action:

(Including date of presentation of policy or action to the applicant, the effective date of the policy or action, schedule for pursuing an amendment to the code if required and signature of the Director)

**Date of policy/action:** September 23, 2011 **Effective Date of policy/action:** Immediately

The Director concurs with staff's position explained above and directs staff to include the necessary amendments to the UDC with the next available update program to support the interpretation contained in this document.

  
**Roderick Sanchez, AICP, C.B.O**  
**Director**

9-23-11  
**Date**